

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEITH HOLDER,

No. C 08-2572 CW (PR)

Petitioner,

ORDER SCHEDULING BRIEFING ON  
PETITIONER'S POST-REMAND  
REQUEST FOR RELEASE

v.

BEN CURRY, Warden,

Respondent.

In an Order filed August 6, 2010, the Court granted Petitioner's pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the October 26, 2006 decision of the California Board of Parole Hearings (BPH) to deny him parole. In particular, the Court ordered the BPH to "set a parole date for Petitioner unless it finds new evidence, arising after the 2006 hearing, of current dangerousness." (Docket No. 9 at 25.)

On September 3, 2010, the Court granted Respondent's request for a temporary stay of the Court's Order to allow Respondent time to seek a stay in the Ninth Circuit. On November 30, 2010, the Ninth Circuit stayed the Court's Order pending appeal.

On May 10, 2011, the Ninth Circuit granted Petitioner's motion to dismiss the appeal as moot, vacated the Court's judgment and remanded to this Court "for further proceedings consistent with this order." (Docket No. 22 at 1.)

On May 16, 2011, Petitioner filed a "Post-Remand Request for Immediate Release," in which he argues he is entitled to release from custody because the BPH held a new hearing on September 2, 2010, i.e., before this Court entered the temporary stay, and

1 granted Petitioner a parole date. Thus, Petitioner argues, the  
2 Ninth Circuit's dismissal of Respondent's appeal as moot entitles  
3 Petitioner to release on parole.

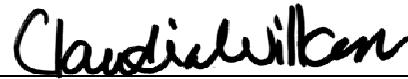
4 Good cause appearing, the following briefing schedule is HEREBY  
5 SET on Petitioner's request:

6 Respondent shall file a response to Petitioner's request no  
7 later than fourteen (14) days from the date of this Order.

8 Petitioner shall file a reply to the response no later than  
9 seven (7) days from the date the response is filed.

10 IT IS SO ORDERED.

11 Dated: 5/24/2011



12 CLAUDIA WILKEN  
13 United States District Judge  
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